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# HOUSE BILL No. 1038

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-34.

**Synopsis:** Child abuse or neglect. Provides that a child who is a passenger in a vehicle operated by the child's parent, guardian, or custodian while the parent, guardian, or custodian is intoxicated is: (1) a victim of child abuse or neglect; and (2) a child in need of services.

**Effective:** July 1, 2005.

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January 4, 2005, read first time and referred to Committee on Family, Children and Human Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1038

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 31-9-2-14 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) "Child abuse or  
3       neglect", for purposes of IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and  
4       IC 31-39-8-4, refers to a child who is alleged to be a child in need of  
5       services as described in IC 31-34-1-1 through ~~IC 31-34-1-5~~.  
6       **IC 31-34-1-5.5.**

7       (b) The term does not include a child who is alleged to be a child in  
8       need of services if the child is alleged to be a victim of a sexual offense  
9       under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3  
10      involves the fondling or touching of the buttocks, genitals, or female  
11      breasts.

12      SECTION 2. IC 31-9-2-133 IS AMENDED TO READ AS  
13      FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 133. (a) "Victim of  
14      child abuse or neglect", for purposes of IC 31-32-11-1 and IC 31-33,  
15      refers to a child in need of services as described in:

- 16           (1) IC 31-34-1-1 through ~~IC 31-34-1-5~~; **IC 31-34-1-5.5**;  
17           (2) IC 31-34-1-10; or



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(3) IC 31-34-1-11.

(b) The term does not include a child who is alleged to be a child in need of services if the child is alleged to be a victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts.

SECTION 3. IC 31-34-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. A child is a child in need of services if, before the child becomes eighteen (18) years of age, the child's parent, guardian, or custodian operates a vehicle in violation of:**

(1) IC 9-30-5-1;

(2) IC 9-30-5-2;

(3) IC 9-30-5-3;

(4) IC 9-30-5-4; or

(5) IC 9-30-5-5;

**while the child is a passenger in the vehicle.**

SECTION 4. IC 31-34-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. A child in need of services under section 1, 2, 3, 4, 5, **5.5**, 6, 7, or 8 of this chapter includes a child with a disability who:

(1) is deprived of nutrition that is necessary to sustain life; or

(2) is deprived of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition;

if the nutrition or medical or surgical intervention is generally provided to similarly situated children with or without disabilities.

SECTION 5. IC 31-34-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a guardian ad litem or a court appointed special advocate, or both, for the child:

(1) If the child is alleged to be a child in need of services:

(A) under IC 31-34-1-6;

(B) under IC 31-34-1-10 or IC 31-34-1-11;

(C) due to the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with the necessary medical care; or

(D) because the location of both of the child's parents is unknown;

the court shall appoint a guardian ad litem or court appointed

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1 special advocate, or both, for the child.  
 2 (2) If the child is alleged to be a child in need of services under:  
 3 (A) IC 31-34-1-1;  
 4 (B) IC 31-34-1-2;  
 5 (C) IC 31-34-1-3;  
 6 (D) IC 31-34-1-4;  
 7 (E) IC 31-34-1-5;  
 8 **(F) IC 31-34-1-5.5;**  
 9 ~~(F)~~ **(G)** IC 31-34-1-7; or  
 10 ~~(G)~~ **(H)** IC 31-34-1-8;  
 11 the court may appoint a guardian ad litem, court appointed special  
 12 advocate, or both, for the child.  
 13 (3) If the parent, guardian, or custodian of a child denies the  
 14 allegations of a petition under section 6 of this chapter, the court  
 15 shall appoint a guardian ad litem, court appointed special  
 16 advocate, or both, for the child.

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